

REMARKS

Claims 1-6 remain pending in the application.

Reconsideration of the rejections and allowance of the pending application in view of the foregoing amendments and following remarks are respectfully requested.

In the Office Action, the specification and the abstract of the disclosure are objected to because of alleged improper reference characters and format. Also, claims 1 and 2 are objected to because of alleged informalities therein.

In response, the specification, the abstract of the disclosure and claims 1 and 2 have been amended to correct the alleged informalities therein. Thus, the objections to the specification, the abstract of the disclosure and the claims are now believed to be moot.

In the Official Action, claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Coccozza, U.S. Patent No. 4,013,075, claims 3, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coccozza in view of Bougamont et al., U.S. Patent No. 5,651,359 (hereinafter "Bougamont"), and claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coccozza and Bougamont in view of Ohki et al., U.S. Patent No. 6,341,605 (hereinafter "Bougamont"). These rejections are respectfully traversed.

Independent claims 1 and 4 have been amended to more clearly define features of presently claimed embodiments of the invention and to more clearly distinguish over the applied prior art references by further reciting that the cutter includes a pair of blades secured in parallel with each other, each blade having a blade tip directed in a direction opposing the advancing direction of the capsule holder, and wherein peripheral portions

of both of the connection ports are formed as seal projections that project from surfaces of the blades toward the loading space, and the distance between the seal projections is shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them is pressed by both seal projections. No new matter is believed to be introduced by the present amendment. In this regard, the Examiner's attention is directed to Figs. 1-5 of Applicant's application.

In the presently claimed embodiment, a device to deliver a powdery medicine for nasal cavity to spray a powdery medicine filled in a capsule by loading the capsule between a connection port on a side of a nozzle to spray the powdery medicine into the nasal cavity and a connection port on a side of a pump that supplies spray air to the nozzle is presented. In a presently claimed embodiment, as recited in amended claim 1, the capsule is formed with a hole on each end in communication with a respective one of the connection ports to receive spray air from the pump through the inside of the capsule to the nozzle. The device includes a capsule holder that holds the capsule filled with the powdery medicine and is slidably movable in the longitudinal direction thereof, the capsule holder is configured to position the capsule in a loading position between the connection port on the side of the nozzle and the connection port on the side of the pump, the capsule holder being movable forward and backward relative to the loading position of the capsule, a cutter that partially cuts off both ends of the capsule that moves forward to the loading position while being held by the capsule holder to make holes on opposite ends of the capsule, the cutter includes a pair of blades secured in parallel with each other, each blade having a blade tip directed in a direction opposing the advancing direction of the capsule holder, and a positioning guide located forwardly of the cutter to guide the

ends of the capsule that moves forward to the loading position while being held by the capsule holder and causing the capsule to slide as far as a predetermined position, wherein the peripheral portions of both of the connection ports are formed as seal projections that project from surfaces of the blades toward the loading space, and the distance between the seal projections is shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them is pressed by both seal projections.

Applicant respectfully submits that the references relied upon in the rejections under 35U.S.C. 102(b) and 103(a), considered singly or in any proper combination, do not disclose such a combination of features. In particular, the combination of presently claimed features that the peripheral portions of both of the connection ports are formed as seal projections that project from surfaces of the blades toward the loading space, and the distance between the seal projections is shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them is pressed by both seal projections, is not disclosed in any of the applied references.

In contrast, none of the applied references even include the seal projections as recited in amended claims 1 and 4.

Further, in the presently claimed embodiments, the distance between the seal projections is shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them is pressed by both seal projections. None of the applied references teach this feature, either.

In Official Action, the Examiner appears to assert that Bougamont teaches that the distance between the connection port on the side of the nozzle and the connection port on

the side of the pump is made shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them are pressed by peripheral portions of both of the connection ports for the purpose of ensuring no spray air leaks from the device thus ensuring the most medicine possible is discharged to the user.

However, Applicant disagrees with the Examiner's assertion. Rather, Applicant notes that in Bougamont the orifice is formed by each blade, the axes of orifices are coincide with each other, the blades are disposed so as to cut through the capsules perpendicular to their cylindrical side walls and flush with the ends of the chambers. Accordingly, in Bougamont the distance of blades and the distance of orifices is considered to be the same, since there is no reason that both distances would be different. As a matter of course, those distances are shorter than the capsule length before cutting and equal to capsule length after cutting. Therefore in Bougamont, there is absolutely no concept that both distances become shorter than capsule length after cutting. That is, when making a hole in opposite ends of a capsule by a pair of blades placed in parallel, generally, both distances are the same, the orifice is flush with the blade surface, so that the peripheral portion of orifice is never formed as projection projected from blade surface.

Furthermore, the presently claimed embodiment solves the problem which occurs when cutting both ends of a capsule and making a hole by a pair of parallel blades. The presently claimed embodiment also solves a problem that air and medicine leak from a gap produced between the hole of a capsule and a blade (connection port), due to the presently claimed features that the peripheral portions of both of the connection ports are

formed as seal projections that project from surfaces of the blades toward the loading space, and the distance between the seal projections is shorter than the length of the capsule after cutting off both ends by the cutter, so that both ends of the capsule loaded between them is pressed by both seal projections .

Thus, Cocozza does not anticipate the present invention or render the presently claimed invention unpatentable, and thus the Examiner's rejection of claims 1 and 2 under 35 U.S.C. §102 (b) is improper. Furthermore, even assuming, arguendo, that the teachings of the applied references can be properly combined, the asserted combination of the applied references would not result in the invention as recited in independent claims 1 and 4. Thus, the rejections of the claims under 35 U.S.C. §103 (a) are also improper.

Independent claims 1 and 4 are now in condition for allowance in view of the amendments and the above-noted remarks. Dependent claims 2, 3, 5 and 6 are also submitted to be in condition for allowance in view of their dependence from the allowable base claims and also at least based upon their recitations of additional features of the present invention. It is respectfully requested, therefore, that the rejections under 35 U.S.C. 102(b), and 35 U.S.C. 103(a) be withdrawn and that an early indication of the allowance thereof be given.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto.

Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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